



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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08/900,964 07/25/97 CAPPELS

R P2106/757

EXAMINER

TM02/0716

CARR DEFILIPPO & FERRELL
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

NGUYEN, J
ART UNIT PAPER

2673 28 26

DATE MAILED: 07/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Please see the attached defective notice of brief.

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Advisory Action	Application No.	Applicant(s)
	08/900,964	CAPPELS, RICHARD D.
Examiner	Art Unit	
Jimmy H. Nguyen	2673	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 23 January 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on 23 October 2000. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. The proposed amendment(s) will not be entered because:

- they raise new issues that would require further consideration and/or search (see NOTE below);
- they raise the issue of new matter (see Note below);
- they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.

4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 26-45.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: See Continuation Sheet

Continuation of 10. Other: This responses to the amendment entered as paper No. 23 in which claim 31 was amended.



BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Defective Notice of Brief

1. The appeal brief filed on 01/23/2001 is defective because the three copies of the brief required under 37 CFR 1.192(a) have not been submitted.

To avoid dismissal of the appeal, appellant must submit the necessary additional copies of the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

2. It is noted to applicant that since the amendment filed on 01/23/2001 as paper No. 23 was entered, so the brief filed on 01/23/01 entered as paper No. 25 does not contain a correct copy of the appealed claims as an appendix thereto, i.e., claim 31 in the brief is not consistent with the amendment. Therefore, it is suggested that applicant should submit a supplemental brief.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is (703) 306-5422. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703) 305-4938. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

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Art Unit: 2673

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JHN
July 11, 2001



BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600